

§ 1944.224 Supplemental requirements for congregate housing and group homes.

This section includes additional provisions that apply to the making of loans for congregate housing and group homes. It will apply in addition to all other applicable requirements contained elsewhere in this subpart. Congregate housing and group homes are types of section 515 RRH that require a broader commitment from applicants to ensure that needed and desired services will be provided when requested by prospective tenants. The concept may not be desired or feasible in all market areas. Congregate housing is unique and has many components. It is not merely an elderly housing project with services. It must be designed and managed to meet the needs of aging tenants. The management of congregate housing requires supervision of support services and more interaction and consultation with tenants. We strongly recommend that applicants who have not dealt with this type of housing obtain assistance from organizations or individuals who have experience in planning and designing congregate housing.

(a) *Congregate housing.* Congregate housing will create an environment that will assist individuals who request services to maintain their independence longer by making available nutritious meals and other services that can help enhance their independence. Congregate housing will also help people who need some services to extend an independent lifestyle.

(1) *Eligible tenants.* Eligible tenants are described in §1944.205 of this subpart and paragraph VI A of exhibit J of subpart C of part 1930 of this chapter.

(2) *Design criteria.* Applicants must pay particular attention to the layout of the structure and the effect of design elements on project management and ongoing operations. Applicants should engage the services of an architect experienced in congregate design. The initial planning of congregate housing should include input on design considerations from project management to prevent the potential long-term affects of poorly conceived design on operations. Congregate housing must be planned and developed in accordance

with subparts A and C of part 1924 of this chapter. In addition, it must meet the following design criteria:

(i) Applicants must pay particular attention to the site requirements contained in §1944.215(r) of this subpart. Congregate housing should be located as close to services and shopping as possible, considering the availability of affordable residential sites. The time it takes to reach services is also important especially when considering potential medical emergencies.

(ii) Facilities needed to accommodate the services described in §1944.224 (a)(5) of this subpart must be designed in accordance with acceptable practices. Specific design guidelines are provided in chapter 1 of guide 2 of subpart A of part 1924 of this chapter. These facilities may be larger than necessary to meet the tenants' requirements if they are needed in the community and other sources of funds are available to pay a pro rata share of the cost.

(iii) The design must accommodate the needs of the individuals the housing is designed to serve. The walkways and corridors between living units and the support service facilities must be safe, comfortable and minimal in length. Handrails that comply with the Uniform Federal Accessibility Standards must be provided on at least one side of all public corridors.

(iv) Areas used by the tenants will be separated as much as possible from areas needed for delivery of food and supplies and other building services. Interior spaces and finish materials must be residential in character and designed to help prevent tenants from becoming disoriented within the building(s).

(v) Emergency lighting must be provided in every public space, corridor, stairway, elevator and other means of egress.

(vi) The entrances to all living units must be on a route accessible to individuals with handicaps. Living units accessible only via exterior steps or interior stairs will not be acceptable.

(vii) The size of rooms and spaces in the living units must be comparable to units provided in other housing for the elderly. Kitchen facilities must be provided in all living units and include, as

a minimum, a cooktop, oven, sink, refrigerator and a food preparation surface.

(viii) The bathroom and one bedroom in each living unit, and any public toilet rooms, must be furnished with an emergency call system that is appropriate for the size and management of the housing facility.

(3) *Limitation on use of loan funds.* Loan funds cannot be used for:

(i) Items which do not become affixed to the real estate security, such as special portable equipment, furnishings, kitchen bars, dining ware, eating utensils, movable tables and chairs, etc. Congregate housing projects require additional items that will not become affixed to the real estate. Developers are responsible for ensuring that these items are made available to the project. The initial operating capital can be used for these items in accordance with § 1944.211(a)(6)(i) of this subpart.

(ii) Specialized equipment for training and therapy.

(iii) Operating capital for a central dining facility.

(4) *Management of congregate projects.* Applicants must meet the provisions of exhibit J of subpart C of part 1930 of this chapter in managing congregate housing and are encouraged to review exhibit J before completing a loan application. In addition to the elements of managing a typical RRH project, congregate housing requires increased management experience and skills. Delivery of services, counseling with tenants, and the decisionmaking process of tenant selection add a unique dimension to prudent management. The success or failure of a project will rely heavily upon management's specialized management and marketing skills and abilities and delivery of services. Applicants who are not experienced with congregate housing must seek assistance from organizations or individuals experienced with congregate issues in developing the management and servicing plans. A separate plan detailing the delivery of services must be submitted with the loan request. If the applicant will be the service provider, it must also submit separate budgets for operation and maintenance of the project and services.

(5) *Support services.* Exhibit E of this subpart must be addressed in planning services. Adequate services must be offered to assist tenants in living independently and be reasonably priced to ensure affordability by very low- and low-income tenants of the tenant base as defined in part 1930, subpart C, exhibit J, paragraph V, of this chapter. A wide variety of services may be offered; however, the following services must be provided:

(i) *Meals.* Since some tenants will depend on the meal service as their only sustenance, at least one cooked meal a day, 7 days a week, must be provided. There may be cases where the meal provider does not furnish meals on a daily basis. On days the meal provider does not furnish meals, an alternate source must provide meals to tenants who are not inclined to prepare their own meals. The following conditions apply to meals:

(A) To ensure that the meals are wholesome and meet the needs of individual tenants, a professionally trained dietitian or nutritionist must be involved in planning the menus.

(B) The feasibility of sustained meal service may be dependent on the number of people who elect to use it. Congregate housing borrowers should actively solicit tenant participation in the meal service if the economic feasibility of the service depends on user charges.

(C) If the entity that operates the service is eligible to accept food stamps under the regulations of the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA), the entity must be authorized by FNS to accept food stamps from tenants for the purchase of meals.

(ii) *Transportation.* Transportation must be provided to the project on a fixed schedule based on tenant needs. Applicants are encouraged to work with public and private transportation sources to develop a dependable and economical method for providing this service. If these sources cannot provide adequate transportation, the applicant must develop a project-sponsored transportation system.

(iii) *Housekeeping.* Housekeeping services must be provided to tenants who request assistance in keeping their

units clean. Light housekeeping tasks, such as dusting, vacuuming, floor washing, bathroom cleaning and laundry for bedding, generally should be provided on a weekly basis. Heavier tasks, such as oven cleaning, window cleaning and drapery cleaning, should be provided periodically.

(iv) *Personal services.* Limited non-medical personal services must be made available to tenants who request them. Personal services can include such items as assistance with personal hygiene, nutrition counseling and general health screening. They do not include recurring medical assistance such as dispensing medication or constant medical supervision. Space may be included in the project for a small beauty shop and health screening area. Applicants may want to consider contracting for personal services to assure their continued and dependable availability to tenants.

(v) *Recreation/social.* Recreational and social activities must be offered to tenants to encourage interest in a variety of areas. Areas such as hobby and craft classes, special dinners and wellness exercise classes could be considered.

(6) *Service providers.* Service must be provided at a cost that can be afforded by very low-, low- and moderate-income tenants. Applicants should explore as many service providers as possible to ensure services at the most reasonable cost. Applicants must research alternative service providers since the original provider may be unable to furnish service in the future. If feasible, project management should be consulted concerning alternative service providers since they may have experience with available sources in the area. Documentation concerning alternative services must be submitted as part of the loan request. Alternative sources must be documented even if the applicant plans to use onsite personnel for services. The availability of services from alternative sources can enhance a proposal's feasibility since long-term services are crucial to the success of congregate housing.

(7) *General service requirements.* Applicants must provide a plan which addresses the long-term availability of assistance from service providers. As a part of the loan request, applicants

must provide a letter of commitment from each service provider detailing its ability and willingness to provide services. This letter must identify the type, scope, cost, term and any licensing requirements of services that will be provided to the project. If a local agency on aging will provide a service, the commitment can be contingent on the agency maintaining its level of funding. In these cases, it is imperative that applicants document the availability of alternative sources as required in 1944.224(a)(6) of this section. As a part of the final application, applicants must provide a service agreement detailing the information contained in the letter of commitment. Initial service agreements must be effective for at least 1 year after the project becomes operational. Subsequent agreements must be effective for at least 1 year. Applicants should refer to paragraph V D of exhibit J of subpart C of part 1930 for further guidance.

(8) *Services provided to people who are not tenants of FmHA or its successor agency under Public Law 103-354 financed congregate housing.* If the meal facility serves people who are not tenants of the project, the applicant must obtain a lease from the service provider and require payment sufficient to cover the annual operating expenses, debt service and reserve account attributable to the portion of increased space that is in excess of the needs of tenants in the project. In most cases, this will be a negligible amount that the meal provider can afford to pay. Applicants should refer to paragraph VIII B of exhibit J of subpart C of part 1930 of this chapter for further guidance.

(b) *Group homes.* Group homes will provide housing in a residential environment for individuals capable of caring for themselves in the basic functions of everyday living but otherwise need the direction and/or assistance of a trained resident assistant. Group homes may be designed for individuals who are elderly, have handicaps, or disabilities as defined in §1944.205 of this subpart. Appropriate common areas and facilities should be included to encourage participation by the tenants under the direction of a staff person in

sharing the meal preparation, house-keeping, social and recreational activities within the home. It is not the goal of group homes to provide housing for tenants requiring constant medical attention. The following conditions are applicable to group homes:

(1) A group home is generally designed as a single household dwelling; however, it can also be a small multi-unit structure. Specific design guidelines are provided in chapter 1 of guide 2 of subpart A of part 1924 of this chapter. In addition, group homes must meet the following design criteria:

(i) The potential decreasing physical and mental capabilities of tenants must be considered in the design.

(ii) Interior spaces and finish materials must be residential in character.

(iii) Emergency lighting must be provided in every corridor, stairway and other means of egress.

(iv) The entrances to all living units must be on a route accessible to handicapped persons.

(2) Prospective tenants must be evaluated to determine if they meet the essential eligibility requirements to reside in a group home. Applicants should be guided by paragraph VI B 1 b of exhibit J of subpart C of part 1930 of this chapter.

(3) A group may limit occupancy to a specific group of tenants. For example, a group home may limit occupancy to eligible elderly tenants, developmentally disabled people, or mentally impaired tenants. Refer to exhibit J of subpart C of part 1930 of this chapter for additional information.

(4) A group home may be associated with another organization, such as a workshop for the developmentally disabled. However, it must be a separate entity and able to function without being dependent on another organization.

(5) Applicants must show that adequate support services needed by the tenants will be available on a continual long range basis. Support services can be provided by the project or by a State or local public agency. A non-profit organization with an estimated ongoing service program also may be deemed capable of providing support services.

(6) Food stamps must be accepted from tenants as part of their contribution for meals in accordance with 1944.224 (a)(5)(C) of this section.

(7) A legal guardian (an individual) may execute a lease agreement on behalf of a tenant in a group home when that tenant does not possess the legal capacity to enter into a legal contract with the project owner.

(8) Instructions on how to determine the per unit rental rates for group homes are stipulated in exhibit J of subpart C of part 1930 of this chapter.

(c) *Market studies for congregate housing and group homes.* In addition to the requirements of exhibit A-7 of this subpart, the following are applicable to market studies for congregate housing and group homes:

(1) Market studies must address the need for housing with services. Local agencies on aging and other groups familiar with the elderly can be a valuable source of information on the needs and wants of elderly people in the market area. Applicants can conduct a mail-out survey to age and income qualified elderly people if information is not available from other sources.

(2) An expanded market area may be considered only when the additional communities are part of the trade area and are so rural that they cannot support development of a congregate or group home facility. If an expanded market area is proposed, the market study must establish conclusively that the community will be able to draw enough tenants from the market area to ensure feasibility of the project. The market study must clearly identify the expanded area and contain separate information on the additional communities. If used, mail-out surveys must clearly address the probability of respondents relocating to the proposed site.

(3) Market studies should include income information from the local social security office since many elderly people are dependent on social security and/or supplemental security income. This information will assist in determining if proposed tenants would have sufficient income to afford the services provided by the project.

(4) Demand for congregate housing generally is displayed by elderly people

who are older than 70 years. Therefore, the market study must contain demographic information particular to those over the age of 62 and those over 70 years old. The study must also address the growth trends of people who are over 85 years old.

(5) Market studies must include information concerning alternative service providers as required in paragraph (a)(6) of this section.

(d) *Compliance with other laws.* Congregate housing and group homes must meet all applicable Federal, State and local laws, statutes, codes and/or ordinances pertaining to these types of housing and the services provided.

[55 FR 26644, June 29, 1990, as amended at 58 FR 38925, July 21, 1993; 58 FR 40953, July 30, 1993; 59 FR 6890, Feb. 14, 1994; 62 FR 25065, 25067, May 7, 1997]

§§ 1944.225–1944.227 [Reserved]

§ 1944.228 Ranking of rural places based on greatest need for Section 515 housing.

The Agency will rank rural places based on greatest need for Section 515 housing in accordance with this section. Places may be incorporated population centers such as cities, boroughs, towns, and villages; or unincorporated population centers identified by the Census Bureau (known as Census Designated Places (CDPs)). States must be consistent state-wide in their use of place types that are included in the list of designated places. Ranking will be based on the following:

(a) Qualifies as a rural area in accordance with 7 CFR 3550.10.

(b) Lacks mortgage credit for borrowers in accordance with §1944.211(a)(2).

(c) Demonstrates a need for multi-family housing based on the following factors, with equal weight given to each. Data for this purpose will be provided to States by the National Office from the most recent rural place data obtained from the Census Bureau. If Census data is not available for an eligible rural place, the State may request authority from the National Office to include the place on the list of designated places established in accordance with §1944.229, provided the place meets the requirements of

§1944.229(b) and it can be demonstrated that there is a high need for assisted multi-family housing based on information obtained from reliable local or state sources. The State may request authority from the National Office to use other state-wide data if it is objective and consistent with the Housing Act of 1949, as amended.

(1) The incidence of poverty, measured by determining households below 30 percent of the county rural median income.

(2) The existence of substandard housing, measured by determining the number of occupied housing units that lack complete plumbing or have more than one occupant per room.

(3) The lack of affordable housing, measured by determining households below 30 percent of county rural median income paying more than 30 percent of income in rent.

[62 FR 25067, May 7, 1997, as amended at 62 FR 67222, Dec. 23, 1997]

§ 1944.229 Establishing the list of designated places for which Section 515 applications will be invited.

States will compile a list of designated places for which Section 515 applications will be invited, in accordance with the provisions of this section and the ranking process described in §1944.228. Inclusion on the list of designated places does not indicate that market need and demand has been established; this will be a loan feasibility determination. Once placed on the list of designated places, places will be considered equal, with no regard to their ranking on the ranking list or order of selection. In exceptional circumstances, there may be an instance when a place with an urgent need for multi-family housing is not reflected in the ranking process in §1944.228; for example, a place that has had a substantial increase in income-eligible population since the most recent decennial Census data because of a new industry, a place that has experienced a loss of affordable housing because of a natural disaster, or a community within the limits of an Indian reservation or tribal allotted or trust land with a demonstrated need for multifamily housing. With concurrence from the National Office, the State may include